

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1869

To amend the Communications Act of 1934 to extend the authorization of appropriations of the Federal Communications Commission, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 1995

Mr. FIELDS of Texas (for himself and Mr. MARKEY) introduced the following bill; which was referred to the Committee on Commerce

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## A BILL

To amend the Communications Act of 1934 to extend the authorization of appropriations of the Federal Communications Commission, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Federal Communica-  
5       tions Commission Authorization Act of 1995”.

6       **SEC. 2. EXTENSION OF AUTHORITY.**

7       (a) AUTHORIZATION OF APPROPRIATIONS.—Section  
8       6 of the Communications Act of 1934 (47 U.S.C. 156)  
9       is amended to read as follows:

1 **“SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

2       “There are authorized to be appropriated for the ad-  
3 ministration of this Act by the Commission \$186,000,000  
4 for fiscal year 1996, together with such sums as may be  
5 necessary for increases resulting from adjustments in sal-  
6 ary, pay, retirement, other employee benefits required by  
7 law, and other nondiscretionary costs, for fiscal year 1996.  
8 Of the sum appropriated in each fiscal year under this  
9 section, a portion, in an amount determined under sections  
10 8(b) and 9(b), shall be derived from fees authorized by  
11 sections 8 and 9.”.

12       (b) TRAVEL AND REIMBURSEMENT PROGRAM.—Sec-  
13 tion 4(g)(2) of the Communications Act of 1934 (47  
14 U.S.C. 154(g)(2)) is amended to read as follows:

15       “(2) The Commission shall submit to the appropriate  
16 committees of Congress, and publish in the Federal Reg-  
17 ister, semiannual reports specifying the reimbursements  
18 which the Commission has accepted under section 1353  
19 of title 31, United States Code.”.

20       (c) COMMUNICATIONS SUPPORT FROM OLDER AMER-  
21 ICANS.—Section 6(a) of the Federal Communications  
22 Commission Authorization Act of 1988 (47 U.S.C. 154  
23 note) is amended by striking “fiscal years 1992 and 1993”  
24 and inserting “fiscal year 1996”.

1 **SEC. 3. APPLICATION FEES.**

2 (a) ADJUSTMENT OF APPLICATION FEE SCHED-  
3 ULE.—Section 8(b) of the Communications Act of 1934  
4 (47 U.S.C. 158(b)) is amended to read as follows:

5 “(b)(1) For fiscal year 1996 and each fiscal year  
6 thereafter, the Commission shall, by regulation, modify  
7 the application fees by proportionate increases or de-  
8 creases so as to result in estimated total collections for  
9 the fiscal year equal to—

10 “(A) \$40,000,000; plus

11 “(B) an additional amount, specified in an ap-  
12 propriation Act for the Commission for that fiscal  
13 year to be collected and credited to such appropria-  
14 tion, not to exceed the amount by which the nec-  
15 essary expenses for the costs described in paragraph  
16 (5) exceeds \$40,000,000.

17 “(2) In making adjustments pursuant to this para-  
18 graph the Commission may round such fees to the nearest  
19 \$5.00 in the case of fees under \$100, or to the nearest  
20 \$20 in the case of fees of \$100 or more. The Commission  
21 shall transmit to the Congress notification of any adjust-  
22 ment made pursuant to this paragraph immediately upon  
23 the adoption of such adjustment.

24 “(3) The Commission is authorized to continue to col-  
25 lect fees at the prior year’s rate until the effective date

1 of fee adjustments or amendments made pursuant to para-  
2 graphs (1) and (4).

3 “(4) The Commission shall, by regulation, add, de-  
4 lete, or reclassify services, categories, applications, or  
5 other filings subject to application fees to reflect additions,  
6 deletions, or changes in the nature of its services or au-  
7 thorization of service processes as a consequence of Com-  
8 mission rulemaking proceedings or changes in law.

9 “(5) Any modified fees established under paragraph  
10 (4) shall be derived by determining the full-time equivalent  
11 number of employees performing application activities, ad-  
12 justed to take into account other expenses that are reason-  
13 ably related to the cost of processing the application or  
14 filing, including all executive and legal costs incurred by  
15 the Commission in the discharge of these functions, and  
16 other factors that the Commission determines are nec-  
17 essary in the public interest. The Commission shall—

18 “(A) transmit to the Congress notification of  
19 any proposed modification made pursuant to this  
20 paragraph immediately upon adoption of such pro-  
21 posal; and

22 “(B) transmit to the Congress notification of  
23 any modification made pursuant to this paragraph  
24 immediately upon adoption of such modification.

1 “(6) Increases or decreases in application fees made  
 2 pursuant to this subsection shall not be subject to judicial  
 3 review.”.

4 (b) TREATMENT OF ADDITIONAL COLLECTIONS.—  
 5 Section 8(e) of such Act is amended to read as follows:

6 “(e) Of the moneys received from fees authorized  
 7 under this section—

8 “(1) \$40,000,000 shall be deposited in the gen-  
 9 eral fund of the Treasury to reimburse the United  
 10 States for amounts appropriated for use by the  
 11 Commission in carrying out its functions under this  
 12 Act; and

13 “(2) the remainder shall be deposited as an off-  
 14 setting collection in, and credited to, the account  
 15 providing appropriations to carry out the functions  
 16 of the Commission.”.

17 (c) SCHEDULE OF APPLICATION FEES FOR PCS.—  
 18 The schedule of application fees in section 8(g) of such  
 19 Act is amended by adding, at the end of the portion under  
 20 the heading “COMMON CARRIER SERVICES”, the following  
 21 new item:

“23. Personal communications services

“a. Initial or new application .....	230
“b. Amendment to pending application .....	35
“c. Application for assignment or transfer of control .....	230
“d. Application for renewal of license .....	35
“e. Request for special temporary authority .....	200
“f. Notification of completion of construction .....	35
“g. Request to combine service areas .....	50”.

1 (d) VANITY CALL SIGNS.—

2 (1) LIFETIME LICENSE FEES.—

3 (A) AMENDMENT.—The schedule of appli-  
 4 cation fees in section 8(g) of such Act is further  
 5 amended by adding, at the end of the portion  
 6 under the heading “PRIVATE RADIO SERVICES”,  
 7 the following new item:

“11. Amateur vanity call signs ..... 150.00”.

8 (B) TREATMENT OF RECEIPTS.—Moneys  
 9 received from fees established under the amend-  
 10 ment made by this subsection shall be deposited  
 11 as an offsetting collection in, and credited to,  
 12 the account providing appropriations to carry  
 13 out the functions of the Commission.

14 (2) TERMINATION OF ANNUAL REGULATORY  
 15 FEES.—The schedule of regulatory fees in section  
 16 9(g) of such Act (47 U.S.C. 159(g)) is amended by  
 17 striking the following item from the fees applicable  
 18 to the Private Radio Bureau:

“Amateur vanity call-signs ..... 7”.

19 **SEC. 4. REGULATORY FEES.**

20 (a) EXECUTIVE AND LEGAL COSTS.—Section 9(a)(1)  
 21 of the Communications Act of 1934 (47 U.S.C. 159(a)(1))  
 22 is amended by inserting before the period at the end the

1 following: “, and all executive and legal costs incurred by  
2 the Commission in the discharge of these functions”.

3 (b) ESTABLISHMENT AND ADJUSTMENT.—Section  
4 9(b) of such Act is amended—

5 (1) in paragraph (4)(B), by striking “90 days”  
6 and inserting “45 days”; and

7 (2) by adding at the end the following new  
8 paragraph:

9 “(5) EFFECTIVE DATE OF ADJUSTMENTS.—The  
10 Commission is authorized to continue to collect fees  
11 at the prior year’s rate until the effective date of fee  
12 adjustments or amendments made pursuant to para-  
13 graph (2) or (3).”.

14 (c) REGULATORY FEES FOR SATELLITE TV OPER-  
15 ATIONS.—The schedule of regulatory fees in section 9(g)  
16 of such Act is amended, in the fees applicable to the Mass  
17 Media Bureau, by inserting after each of the items per-  
18 taining to construction permits in the fees applicable to  
19 VHF commercial and UHF commercial TV the following  
20 new item:

“Terrestrial television satellite operations ..... 500”.

21 (d) GOVERNMENTAL ENTITIES USE FOR COMMON  
22 CARRIER PURPOSES.—Section 9(h) of such Act is amend-  
23 ed by adding at the end the following new sentence: “The  
24 exceptions provided by this subsection for governmental

1 entities shall not be applicable to any services that are pro-  
2 vided on a commercial basis in competition with another  
3 carrier.”.

4 (e) INFORMATION REQUIRED IN CONNECTION WITH  
5 ADJUSTMENT OF REGULATORY FEES.—Title I of such  
6 Act is amended—

7 (1) in section 9, by striking subsection (i); and  
8 (2) by inserting after section 9 the following  
9 new section:

10 **“SEC. 10. ACCOUNTING SYSTEM AND ADJUSTMENT INFOR-**  
11 **MATION.**

12 “(a) ACCOUNTING SYSTEM REQUIRED.—The Com-  
13 mission shall develop accounting systems for the purposes  
14 of making the adjustments authorized by sections 8 and  
15 9. The Commission shall annually prepare and submit to  
16 the Congress an analysis of such systems and shall annu-  
17 ally afford interested persons the opportunity to submit  
18 comments concerning the allocation of the costs of per-  
19 forming the functions described in section 8(a)(5) and  
20 9(a)(1) in making such adjustments in the schedules re-  
21 quired by sections 8 and 9.

22 “(b) INFORMATION REQUIRED IN CONNECTION WITH  
23 ADJUSTMENT OF APPLICATION AND REGULATORY  
24 FEES.—



1           “(1) SCHEDULE OF REQUESTED AMOUNTS.—

2           No later than May 1 of each calendar year, the  
3           Commission shall prepare and transmit to the Com-  
4           mittees of Congress responsible for the Commis-  
5           sion’s authorization and appropriations a detailed  
6           schedule of the amounts requested by the Presi-  
7           dent’s budget to be appropriated for the ensuing fis-  
8           cal year for the activities described in sections  
9           8(a)(5) and 9(a)(1), allocated by bureaus, divisions,  
10          and offices of the Commission.

11          “(2) EXPLANATORY STATEMENT.—If the Com-  
12          mission anticipates increases in the application fees  
13          or regulatory fees applicable to any applicant, li-  
14          censee, or unit subject to payment of fees, the Com-  
15          mission shall submit to the Congress by May 1 of  
16          such calendar year a statement explaining the rela-  
17          tionship between any such increases and either (A)  
18          increases in the amounts requested to be appro-  
19          priated for Commission activities in connection with  
20          such applicants, licensees, or units subject to pay-  
21          ment of fees, or (B) additional activities to be per-  
22          formed with respect to such applicants, licensees, or  
23          units.

24          “(3) DEFINITION.—For purposes of this sub-  
25          section, the term ‘amount requested by the Presi-

1       dent's budget' shall include any adjustments to such  
2       requests that are made by May 1 of such calendar  
3       year. If any such adjustment is made after May 1,  
4       the Commission shall provide such Committees with  
5       updated schedules and statements containing the in-  
6       formation required by this subsection within 10 days  
7       after the date of any such adjustment.”.

8       **SEC. 5. INSPECTION OF SHIP RADIO STATIONS.**

9       (a) AUTHORITY TO DESIGNATE ENTITIES TO IN-  
10      SPECT.—Section 4(f)(3) of the Communications Act of  
11      1934 (47 U.S.C. 154(f)(3)) is amended by adding at the  
12      end the following: “*And provided further*, That, in the al-  
13      ternative, an entity designated by the Commission may  
14      make the inspections referred to in this paragraph.”.

15      (b) CONDUCT OF INSPECTIONS.—Section 362(b) of  
16      such Act (47 U.S.C. 362(b)) is amended to read as  
17      follows:

18      “(b) Every ship of the United States that is subject  
19      to this part shall have the equipment and apparatus pre-  
20      scribed therein inspected at least once each year by the  
21      Commission or an entity designated by the Commission.  
22      If, after such inspection, the Commission is satisfied that  
23      all relevant provisions of this Act and the station license  
24      have been complied with, the fact shall be certified to on  
25      the station license by the Commission. The Commission

1 shall make such additional inspections at frequent inter-  
2 vals as the Commission determines may be necessary to  
3 ensure compliance with the requirements of this Act. The  
4 Commission may, upon a finding that the public interest  
5 could be served thereby—

6           “(1) waive the annual inspection required under  
7 this section for a period of up to 90 days for the sole  
8 purpose of enabling a vessel to complete its voyage  
9 and proceed to a port in the United States where an  
10 inspection can be held; or

11           “(2) waive the annual inspection required under  
12 this section for a vessel that is in compliance with  
13 the radio provisions of the Safety Convention and  
14 that is operating solely in waters beyond the juris-  
15 diction of the United States, provided that such in-  
16 spection shall be performed within 30 days of such  
17 vessel’s return to the United States.”.

18       (c) INSPECTION BY OTHER ENTITIES.—Section 385  
19 of such Act (47 U.S.C. 385) is amended by inserting “or  
20 an entity designated by the Commission” after “The Com-  
21 mission”.

22 **SEC. 6. EXPEDITED ITFS PROCESSING.**

23       Section 5(c)(1) of the Communications Act of 1934  
24 (47 U.S.C. 155(c)(1)) is amended by striking the last sen-  
25 tence and inserting the following: “Except for cases involv-

1 ing the authorization of service in the Instructional Tele-  
2 vision Fixed Service, or as otherwise provided in this Act,  
3 nothing in this paragraph shall authorize the Commission  
4 to provide for the conduct, by any person or persons other  
5 than persons referred to in paragraph (2) or (3) of section  
6 556(b) of title 5, United States Code, of any hearing to  
7 which such section applies.”.

8 **SEC. 7. TARIFF REJECTION AUTHORITY.**

9 Section 203(d) of the Communications Act of 1934  
10 (47 U.S.C. 203(d)) is amended by inserting after the first  
11 sentence the following new sentences: “The Commission  
12 may, after affording interested parties an opportunity to  
13 comment, reject a proposed tariff filing in whole or in  
14 part, if the filing or any part thereof is patently unlawful.  
15 In evaluating whether a proposed tariff filing is patently  
16 unlawful, the Commission may consider additional infor-  
17 mation filed by the carrier or any interested party and  
18 shall presume the facts alleged by the carrier to be true.”.

19 **SEC. 8. REFUND AUTHORITY.**

20 Title II of the Communications Act of 1934 (47  
21 U.S.C. 201 et seq.) is amended by adding at the end there-  
22 of the following new section:

23 **“SEC. 230. REFUND AUTHORITY.**

24 “In addition to any other provision of this Act under  
25 which the Commission may order refunds, the Commission

1 may require by order the refund of such portion of any  
2 charge by any carrier or carriers as results from a viola-  
3 tion of section 220 (a), (b), or (d) or 221 (c) or (d) or  
4 of any of the rules promulgated pursuant to such sections  
5 or pursuant to section 215, 218, or 219. Such refunds  
6 shall be ordered only to the extent that the Commission  
7 or a court finds that such violation resulted in unlawful  
8 charges and shall be made to such persons or classes of  
9 persons as the Commission determines reasonably rep-  
10 resent the persons from whom amounts were improperly  
11 received by reason of such violation. No refunds shall be  
12 required under this section unless—

13           “(1) the Commission issues an order advising  
14       the carrier of its potential refund liability and pro-  
15       vides the carrier with an opportunity to file written  
16       comments as to why refunds should not be required;  
17       and

18           “(2) such order is issued not later than 5 years  
19       after the date the charge was paid.

20 In the case of a continuing violation, a violation shall be  
21 considered to occur on each date that the violation is re-  
22 peated.”.

1 **SEC. 9. LICENSING OF AVIATION, MARITIME, AND PER-**  
2 **SONAL RADIO SERVICES BY RULE.**

3 Section 307(e) of the Communications Act of 1934  
4 (47 U.S.C. 307(e)) is amended to read as follows:

5 “(e)(1) Notwithstanding any license requirement es-  
6 tablished in this Act, if the Commission determines that  
7 such authorization serves the public interest, convenience,  
8 and necessity, the Commission may by rule authorize the  
9 operation of radio stations without individual licenses in  
10 the following radio services: (A) the personal radio serv-  
11 ices; (B) the aviation radio service for aircraft stations op-  
12 erated on domestic flights when such aircraft are not oth-  
13 erwise required to carry a radio station; and (C) the mari-  
14 time radio service for ship stations navigated on domestic  
15 voyages when such ships are not otherwise required to  
16 carry a radio station.

17 “(2) Any radio station operator who is authorized by  
18 the Commission to operate without an individual license  
19 shall comply with all other provisions of this Act and with  
20 rules prescribed by the Commission under this Act.

21 “(3) For purposes of this subsection, the terms ‘per-  
22 sonal radio services’, ‘aircraft station’, and ‘ship station’  
23 shall have the meanings given them by the Commission  
24 by rule, except that the term ‘personal radio services’ shall  
25 not include the amateur service.”.

1 **SEC. 10. AUCTION TECHNICAL AMENDMENTS.**

2 (a) FUNDING AVAILABILITY.—Section 309(j)(8)(B)  
3 of the Communications Act of 1934 (47 U.S.C.  
4 309(j)(8)(B)) is amended by adding at the end the follow-  
5 ing new sentence: “Such offsetting collections are author-  
6 ized to remain available until expended.”.

7 (b) ESCROW OF DEPOSITS.—Section 309(j)(8) of  
8 such Act is further amended by adding at the end the fol-  
9 lowing new subparagraph:

10 “(C) ESCROW OF DEPOSIT.—The Commis-  
11 sion is authorized, based on the competitive bid-  
12 ding methodology selected, to provide for the  
13 deposit of moneys for bids in an interest-bear-  
14 ing account until such time as the Commission  
15 accepts a deposit from the high bidder. All in-  
16 terest earned on bid moneys received from the  
17 winning bidder shall be deposited into the gen-  
18 eral fund of the Treasury. All interest earned  
19 on bid moneys deposited from unsuccessful bid-  
20 ders, less any applicable fees and penalties,  
21 shall be paid to those bidders.”.

22 **SEC. 11. FORFEITURES FOR VIOLATIONS IMPERILING**  
23 **SAFETY OF LIFE.**

24 (a) ADMINISTRATIVE SANCTIONS.—Section 312(a) of  
25 the Communications Act of 1934 (47 U.S.C. 312(a)) is  
26 amended—

1 (1) by striking “or” at the end of paragraph  
2 (6);

3 (2) by striking the period at the end of para-  
4 graph (7) and inserting “; or”; and

5 (3) by adding at the end the following new  
6 paragraph:

7 “(8) for failure to comply with any requirement  
8 of this Act or the Commission’s rules that imperils  
9 the safety of life.”.

10 (b) FORFEITURES.—Section 503(b)(1) of such Act  
11 (47 U.S.C. 503(b)(1)) is amended—

12 (1) by striking “or” at the end of subparagraph  
13 (C);

14 (2) by striking the semicolon at the end of sub-  
15 paragraph (D) and inserting “; or”; and

16 (3) by adding after subparagraph (D) the fol-  
17 lowing new subparagraph:

18 “(E) failed to comply with any requirement of  
19 this Act or the Commission’s rules that imperils the  
20 safety of life;”.

21 **SEC. 12. USE OF EXPERTS AND CONSULTANTS.**

22 Section 4(f)(1) of the Communications Act of 1934  
23 (47 U.S.C. 154) is amended by adding at the end thereof  
24 the following: “The Commission may also procure the  
25 services of experts and consultants in accordance with sec-



1 tion 3109 of title 5, United States Code, relating to ap-  
2 pointments in the Federal Service, at rates of compensa-  
3 tion for individuals not to exceed the daily rate equivalent  
4 to the maximum rate payable for senior-level positions  
5 under section 5276 of title 5, United States Code.”.

6 **SEC. 13. STATUTE OF LIMITATIONS FOR FORFEITURE PRO-**  
7 **CEEDINGS AGAINST COMMON CARRIERS.**

8 Section 503(b)(6) of the Communications Act of  
9 1934 (47 U.S.C. 503(b)(6)) is amended—

10 (1) by striking “or” at the end of subparagraph  
11 (A);

12 (2) by inserting “and is not a common carrier”  
13 after “title III of this Act” in subparagraph (B);

14 (3) by redesignating subparagraph (B) as sub-  
15 paragraph (C); and

16 (4) by inserting after subparagraph (A) the fol-  
17 lowing new subparagraph:

18 “(B) such person is a common carrier and the  
19 required notice of apparent liability is issued more  
20 than 5 years after the date the violation charged oc-  
21 curred; or”.

1 **SEC. 14. UTILIZATION OF FM BAND FOR ASSISTIVE DE-**  
2 **VICES FOR HEARING IMPAIRED INDIVID-**  
3 **UALS.**

4 Within 6 months after the date of enactment of this  
5 Act, the Federal Communications Commission shall report  
6 to the Congress on the existing and future use of the FM  
7 band to facilitate the use of auditory assistive devices for  
8 individuals with hearing impairments. In preparing such  
9 report, the Commission shall consider—

10 (1) the potential for utilizing FM band auditory  
11 assistive devices to comply with the American with  
12 Disabilities Act;

13 (2) the impact on such compliance of the vul-  
14 nerability of such devices to harmful interference  
15 from radio licensees; and

16 (3) alternative frequency allocations that could  
17 facilitate such compliance.

18 **SEC. 15. TECHNICAL AMENDMENT.**

19 Section 302(d)(1) of the Communications Act of  
20 1934 (47 U.S.C. 309(d)(1)) is amended—

21 (1) in subparagraph (A), by striking “allocated  
22 to the domestic cellular radio telecommunications  
23 service” and inserting “utilized to provide commer-  
24 cial mobile service (as defined in section 332(d))”;  
25 and

- 1           (2) in subparagraph (C), by striking “cellular”
- 2           and inserting “commercial mobile service”.



HR 1869 IH——2